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13 *Interim Co-Lead Consumer Class Counsel*

14 [Additional counsel listed on signature page]

15 **UNITED STATES DISTRICT COURT**

16 **NORTHERN DISTRICT OF CALIFORNIA**

17 **SAN FRANCISCO DIVISION**

18 MAXIMILIAN KLEIN, et al.,

19 Consolidated Case No. 3:20-cv-08570-JD

20 Plaintiffs,

21 **DECLARATION OF RACHEL BANKS
22 KUPCHO IN SUPPORT OF CONSUMER
23 PLAINTIFFS' MOTION FOR CLASS
24 CERTIFICATION AND APPOINTMENT
25 OF CLASS COUNSEL**

26 vs.

27 META PLATFORMS, INC.,

28 The Hon. James Donato

1 Defendant.

2 Hearing Date: Dec. 14, 2023 at 10:00 a.m.

3 This Document Relates To: All Actions

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1 I, Rachel Banks Kupcho, declare as follows:

2 1. I make this declaration of my own personal, firsthand knowledge, and if called and
3 sworn as a witness, I could and would competently testify as follows.

4 2. I am a named plaintiff and proposed Class Representative of the proposed Consumer
5 Class in this class action brought pursuant to Federal Rule of Civil Procedure 23.

6 3. I first created my Facebook profile in 2008. I have continued to maintain and use
7 my Facebook account, and I have done so since December 3, 2016. I therefore understand that I am
8 a member of the proposed Consumer Class, which I understand consists of:

9 All persons in the United States who maintained and used a Facebook profile at any
10 point from December 3, 2016 to December 3, 2020. Excluded from the Class are:
11 (1) Defendant Meta Platforms, Inc. (“Meta”), any entity in which Meta has an
interest, any of Meta’s corporate parents, affiliates, subsidiaries, officers, directors,
legal representatives, successors and assigns; (2) any judge, justice, or judicial
officer presiding over this matter and the members of their immediate families and
12 judicial staff; and (3) any juror assigned to this action.

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14 4. I understand that I have paid for my use of Facebook with my data and that Facebook
15 collects and uses my data through my use and maintenance of my Facebook account.

16 5. I believe that, because of Facebook’s anticompetitive conduct, I paid
17 supracompetitive prices to use Facebook. I seek to recover treble damages, declaratory, injunctive
18 and equitable relief, and costs of suit, including reasonable attorneys’ fees, on behalf of myself and
19 all others similarly situated.

20 6. I believe that my claims are typical of those of the Consumer Class because the legal
21 claims the Consumer Class and I assert are the same, they are against the same defendant
22 (Facebook), they are based on the same conduct (Facebook’s deception regarding its data collection
23 and use practices), and they result in the same injury (all Consumer Class members and I paying
24 Facebook supracompetitive prices).

25 7. I am not aware of any facts that would limit my ability to adequately represent the
26 interest of other class members of the Consumer Class, or of any conflicts that would make my
27 interests antagonistic to those of other members of the Consumer Class. I have not been promised
28 any compensation for bringing this case and serving as a class representative.

1 8. I understand I have a duty to protect the interests of the Consumer Class. I have done
2 so to date, and I am committed to continuing to protect the best interests of Consumer Class members
3 and working with my lawyers to obtain a successful outcome for the Consumer Class.

4 9. I further understand I have a duty to participate actively in the prosecution of this
5 action. I have done so for more than two years. I have discussed this matter with my lawyers on
6 many different occasions as part of regular check-ins about the case and in response to different
7 developments. I have reviewed pleadings before they were filed and have responded to numerous
8 written discovery requests from Facebook, including multiple sets of document requests,
9 interrogatories and requests for admission. I sat for a deposition in this case on May 22, 2023. I
10 also worked with my lawyers and a forensics vendor to, on multiple occasions, collect thousands of
11 documents from within my files and devices in response to Facebook's burdensome document
12 requests.

13 10. I have and will continue to do what is necessary to protect the interests of members
14 of the Consumer Class. I will continue to remain apprised of the developments in this case and to
15 confer with my attorneys on a regular basis.

16 11. I have also retained lawyers who are well-versed in antitrust cases and class actions.
17 I understand that Mr. Teruya, Ms. Scarlett, and their firms have dedicated considerable time and
18 resources to advancing my and the Consumer Class's claims in this case. If Mr. Teruya and Ms.
19 Scarlett are appointed as Co-Lead Consumer Class Counsel, I am confident that they will continue
20 to do an excellent job representing me and the Consumer Class going forward.

21 12. Based on the foregoing, I respectfully request that the Court grant Consumer
22 Plaintiffs' Motion for Class Certification and Appointment of Class Counsel, appoint me as a Class
23 Representative of the Consumer Class, and appoint Mr. Teruya and Ms. Scarlett as Co-Lead
24 Consumer Class Counsel.

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1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct.

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4 Executed on September 14, 2023 in Edina, Minnesota.

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6 By 
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7 Rachel Banks Kupcho

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